

# Illinois Department of Insurance Encourages Insurers to Comply with 2005 Medical Malpractice Reforms

## Department observed increased competition, 10% decrease in premium paid since 2005 reforms

**CHICAGO**—February 20, 2010. On February 4, 2010, the Illinois Supreme Court held the limitation on non-economic damages in medical malpractice actions unconstitutional. *Lebron v. Gottlieb*, Nos. 105741 and 105745 cons. (February 4, 2010). Due to an inseverability provision in the Act in which the limitations (or “caps”) were enacted (Public Act 94-677), the Supreme Court also held invalid the medical malpractice regulatory reforms (“the 2005 Reform Laws”) contained in the Act. However, in its decision, the Supreme Court emphasized that because the 2005 Reform Laws **“are deemed invalid solely on inseverability grounds, the legislature remains free to reenact any provisions it deems appropriate.”**

The 2005 Reform Laws imposed changes to the Illinois Insurance Code that improved insurer reporting and transparency requirements and enhanced the Department’s rate oversight authority. Since 2005, the Department has observed improvements in the medical malpractice insurance market. In particular, the Department observed:

- **A decrease in medical malpractice premiums.** Gross premium paid to medical malpractice insurers has declined from \$606,355,892 in 2005 to \$541,278,548 in 2008;
- **An increase in competition among companies offering medical malpractice insurance.** In 2008, 19 companies offering coverage to physicians/surgeons each collected more than \$500,000 in premiums, an increase from 14 such companies in 2005; and
- **The entry into Illinois of new companies offering medical malpractice insurance.** In 2008, five companies collected more than \$22,000,000 in combined physicians/surgeons premiums – and at least \$1,000,000 each in premiums – that did not offer medical malpractice insurance in 2005.

The Department has also increased the public availability of medical malpractice insurance information by creating a “Medical Malpractice Insurance Resource Center” on its web site, [insurance.illinois.gov](http://insurance.illinois.gov). The Resource Center includes, among other things, a “Rates and Rules Filing Report” which tracks all insurer filings received from 2001 to the present, including the percentage rate change proposed in each filing; copies of company rate and rule filings since 2005; and statistical data submitted by medical malpractice companies.

Given the public interest served by improved stability and affordability of medical malpractice insurance in Illinois, the Department requests continued, voluntary compliance by insurers with the insurance reforms. In particular, the Department requests that insurers:

- Timely respond to Department requests for additional information necessary to determine the manner in which rates are set and the reasonableness of those rates;
- Continue offering insureds quarterly premium payment options;
- Continue offering insureds policies that contain deductibles;
- Continue to submit rate and rule filings to the Department prior to the effective date of the proposed change;
- Continue to offer discounts to insureds who agree to participate in risk management practices; and
- Provide the Department with 180 days notice before discontinuing the writing of insurance in Illinois.

The Department also encourages insurers to continue to provide information and data required by the 2005 Reform Laws, including:

- The insurer's base rates and a list of available insurance agents; and
- Additional loss, claims, exposure, and expense data as well as company-produced studies of reserves supporting Illinois medical malpractice business and company surplus.

The Department requests that insurers comply voluntarily with these provisions. Companies remain obligated to submit to the Department closed claim (loss) information and information concerning medical malpractice lawsuits filed against the company's insureds. Further, the Department retains authority to conduct public hearings on rates that are unfairly discriminatory, excessive or inadequate.

## **More Information**

The Department's mission is to protect consumers by providing assistance and information, by efficiently regulating the insurance industry's market behavior and financial solvency, and by fostering a competitive insurance marketplace. The Department assists consumers with all insurance complaints, including health, auto, life, and homeowners. Consumers in need of information or assistance should visit the Department's Web site at [insurance.illinois.gov](http://insurance.illinois.gov) or call our toll-free hotline at (866) 445-5364.